

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 1411

By: Nichols of the House

5 and

6 **Matthews** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to revenue and taxation; amending
11 Section 1, Chapter 421, O.S.L. 2014 (68 O.S. Supp.
12 2018, Section 2357.403), which relates to affordable
13 housing tax credits; modifying definition;
 eliminating restriction on availability of tax
 credits based upon certain population limit; and
 providing an effective date.

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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY Section 1, Chapter 421, O.S.L.
18 2014 (68 O.S. Supp. 2018, Section 2357.403), is amended to read as
19 follows:

20 Section 2357.403 A. This act shall be known and may be cited
21 as the "Oklahoma Affordable Housing Act".

22 B. As used in this section:

23 1. "Allocation year" means the year for which the Oklahoma
24 Housing Finance Agency allocates credits pursuant to this section;

1 2. "Eligibility statement" means a statement authorized and
2 issued by the Oklahoma Housing Finance Agency certifying that a
3 given project qualifies for the Oklahoma Affordable Housing Tax
4 Credit authorized by this section. The Oklahoma Housing Finance
5 Agency, under Title 330, Oklahoma Housing Finance Agency, Chapter
6 36, Affordable Housing Tax Credit Program Rules, shall promulgate
7 rules establishing criteria upon which the eligibility statements
8 will be issued. The eligibility statement shall specify the amount
9 of Oklahoma Affordable Housing Tax Credits allocated to a qualified
10 project. The Oklahoma Housing Finance Agency shall only authorize
11 the tax credits created by this section to qualified projects which
12 are placed in service after July 1, 2015, but which shall not be
13 used to reduce tax liability accruing prior to January 1, 2016;

14 3. "Federal low-income housing tax credit" means the federal tax
15 credit as provided in Section 42 of the Internal Revenue Code of
16 1986, as amended;

17 4. "Oklahoma Affordable Housing Tax Credit" means the tax credit
18 created by this section;

19 5. "Qualified project" means a qualified low-income building as
20 that term is defined in Section 42 of the Internal Revenue Code of
21 1986, as amended, ~~which is located in this state in a county with a~~
22 ~~population of less than one hundred fifty thousand (150,000)~~
23 ~~according to the latest Federal Decennial Census; and~~
24

1 6. "Taxpayer" means a person, firm or corporation subject to the
2 tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~
3 this title or an insurance company subject to the tax imposed by
4 Section 624 or 628 of Title 36 of the Oklahoma Statutes or other
5 financial institution subject to the tax imposed by Section 2370 of
6 ~~Title 68 of the Oklahoma Statutes~~ this title.

7 C. For qualified projects placed in service after July 1, 2015,
8 the amount of state tax credits created by this section which are
9 allocated to a project shall be equal to that of the federal low-
10 income housing tax credits for a qualified project. The total
11 Oklahoma Affordable Housing Tax Credits allocated to all qualified
12 projects for an allocation year shall not exceed Four Million Dollars
13 (\$4,000,000.00). For purposes of this section, the "credit period"
14 shall mean the period of ten (10) taxable years and "placed in
15 service" shall have the same meaning as is applicable under the
16 federal credit program.

17 D. A taxpayer owning an interest in an investment in a qualified
18 project shall be allowed Oklahoma Affordable Housing Tax Credits
19 under this section for tax years beginning on or after January 1,
20 2016, if the Oklahoma Housing Finance Agency issues an eligibility
21 statement for such project, which tax credit shall be allocated
22 among some or all of the partners, members or shareholders of the
23 taxpayer owning such interest in any manner agreed to by such
24

1 partners, members or shareholders. Such taxpayer may assign its
2 interest in the investment.

3 E. An insurance company claiming a credit against state premium
4 tax or retaliatory tax or any other tax imposed by Section 624 or 628
5 of Title 36 of the Oklahoma Statutes shall not be required to pay
6 any additional retaliatory tax under Section 628 of Title 36 of the
7 Oklahoma Statutes as a result of claiming the credit. The credit
8 may fully offset any retaliatory tax imposed by Section 628 of Title
9 36 of the Oklahoma Statutes.

10 F. The credit authorized by this section shall not be used to
11 reduce the tax liability of the taxpayer to less than zero (\$0.00).

12 G. Any credit claimed but not used in a taxable year may be
13 carried forward to each of the five (5) subsequent taxable years.

14 H. The owner of a qualified project eligible for the credit
15 authorized by this section shall submit, at the time of filing the
16 tax return with the Oklahoma Tax Commission, an eligibility
17 statement from the Oklahoma Housing Finance Agency. In the case of
18 failure to attach the eligibility statement, no credit under this
19 section shall be allowed with respect to such project for that year
20 until required documents are provided to the Tax Commission.

21 I. If under Section 42 of the Internal Revenue Code of 1986, as
22 amended, a portion of any federal low-income housing credits taken on
23 a qualified project is required to be recaptured during the first ten
24 (10) years after a project is placed in service, the taxpayer

1 claiming Oklahoma Affordable Housing Tax Credits with respect to such
2 project shall also be required to recapture a portion of such
3 credits. The amount of Oklahoma Affordable Housing Tax Credits
4 subject to recapture shall be proportionally equal to the amount of
5 federal low-income housing credits subject to recapture.

6 J. The Oklahoma Housing Finance Agency or the Oklahoma Tax
7 Commission may require the filing of additional documentation
8 necessary to determine the accuracy of a tax credit claimed.

9 K. The Oklahoma Affordable Housing Act shall undergo a review
10 every five (5) years by a committee of nine (9) persons, to be
11 appointed three persons each by the Governor, President Pro Tempore of
12 the Oklahoma State Senate and the Speaker of the Oklahoma House of
13 Representatives.

14 SECTION 2. This act shall become effective November 1, 2019.
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16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
17 02/28/2019 - DO PASS, As Coauthored.
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